



General Assembly

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## ***Amendment***

LCO No. 8137



Offered by:

SEN. OSTEN, 19<sup>th</sup> Dist.  
SEN. SOMERS, 18<sup>th</sup> Dist.  
SEN. FORMICA, 20<sup>th</sup> Dist.  
SEN. WINFIELD, 10<sup>th</sup> Dist.

REP. REED, 102<sup>nd</sup> Dist.  
REP. HOYDICK, 120<sup>th</sup> Dist.  
REP. RYAN, 139<sup>th</sup> Dist.  
REP. RILEY, 46<sup>th</sup> Dist.

To: Subst. Senate Bill No. 4

File No. 467

Cal. No. 241

### **"AN ACT CONCERNING MUNICIPAL ELECTRIC UTILITY COOPERATIVES."**

1 Strike everything after the enacting clause and substitute the  
2 following in lieu thereof:

3 "Section 1. Section 7-233c of the general statutes is repealed and the  
4 following is substituted in lieu thereof (*Effective October 1, 2017*):

5 (a) Any two or more municipal electric utilities may, by concurrent  
6 resolutions, duly adopted by the governing bodies of each of such  
7 municipal electric utilities, create and become members of a municipal  
8 electric energy cooperative under the name and style of "the ....  
9 municipal electric energy cooperative", with some identifying phrase  
10 inserted. The managing body of the municipal electric energy  
11 cooperative shall be a cooperative utility board which shall be charged  
12 with carrying out the corporate purposes and powers of the municipal

13 electric energy cooperative. The number of representatives to be  
14 appointed at any time for full terms of office [by the governing bodies  
15 of such municipal electric utilities] shall be such uniform numbers as  
16 may be mutually agreed upon in said resolutions which number shall  
17 be not less than two nor more than six for each member, provided one  
18 such representative shall be appointed by the legislative body of each  
19 municipality in which a member municipal electric utility operates,  
20 pursuant to this subsection. After the taking effect of the said  
21 resolutions of all such municipal electric utilities and after the filing of  
22 certified copies thereof pursuant to subsection (a) of section 7-233d, the  
23 agreed number of representatives shall be appointed to the cooperative  
24 utility board by the governing body of each municipal electric utility [. The]  
25 and the legislative body of the municipality in which each  
26 municipal electric utility operates, pursuant to this subsection. For  
27 representatives appointed by the governing body of each municipal  
28 electric utility, the qualification of such representatives, terms of office  
29 for the original representatives and their successors and compensation,  
30 if any, by the member pursuant to this section or by the municipal  
31 electric energy cooperative pursuant to section 7-233p, as amended by  
32 this act, shall be prescribed by each such governing body; provided,  
33 each representative shall be an official or employee of such municipal  
34 electric utility. For each representative appointed by the legislative  
35 body of each municipality in which a member municipal electric utility  
36 operates, the qualification of such representative, terms of office for the  
37 original representative and his or her successors and compensation, if  
38 any, by the legislative body or by the municipal electric energy  
39 cooperative pursuant to section 7-233p, as amended by this act, shall  
40 be prescribed by each such legislative body and any such  
41 compensation shall be approved by such legislative body, provided  
42 each such legislative body shall appoint a representative who is a  
43 residential or commercial ratepayer of the municipal electric utility  
44 that operates in the municipality of such legislative body and who  
45 does not hold other official positions in and is not employed by (1) the  
46 governing body of such member municipal electric utility, (2) the  
47 municipality in which the member municipal electric utility operates,

48 (3) the governing body of any other member municipal electric utility,  
49 (4) the municipality in which any other member municipal electric  
50 utility operates, or (5) the municipal electric energy cooperative. In  
51 addition to paying such compensation as may be prescribed pursuant  
52 to this section or section 7-233p, as amended by this act, a member  
53 municipal electric utility or a legislative body, upon approval by such  
54 legislative body, may reimburse its representatives for expenses for  
55 travel, both within and without the state, incurred by them in  
56 connection with services as a designated representative on such board.  
57 Before such municipal electric energy cooperative can be validly and  
58 legally formed each of the municipalities represented by a municipal  
59 electric utility joining together to form the municipal electric energy  
60 cooperative must, by proper proceedings duly adopted, consent and  
61 agree to such formation of the municipal electric energy cooperative.

62 (b) After the creation of a municipal electric energy cooperative  
63 under subsection (a) of this section, any other municipal electric utility  
64 may become a member of the municipal electric energy cooperative if  
65 (1) the municipal electric utility files with the municipal electric energy  
66 cooperative (A) a resolution, duly adopted by its governing body,  
67 requesting membership in such cooperative, and (B) a certified copy of  
68 the proper proceedings, duly adopted by the municipality represented  
69 by the municipal electric utility, consenting and agreeing to such  
70 membership, and (2) after the municipal electric energy cooperative  
71 receives such filing, the governing bodies of at least two-thirds of the  
72 municipal electric utilities comprising the membership of the  
73 municipal electric energy cooperative at the time of such filing duly  
74 adopt a resolution approving membership of such municipal electric  
75 utility in the municipal electric energy cooperative. After the filing of  
76 certified copies of all such resolutions with the Secretary of the State  
77 pursuant to subsection (b) of section 7-233d, the governing body of the  
78 municipal electric utility being added to the municipal electric energy  
79 cooperative and the municipality in which such municipal electric  
80 utility operates shall appoint representatives to the cooperative utility  
81 board of the municipal electric energy cooperative. The number of

82 such appointed representatives shall be the same as the number  
83 mutually agreed upon by the other members of the municipal electric  
84 energy cooperative pursuant to subsection (a) of this section. The  
85 provisions of said subsection (a) concerning the qualification,  
86 compensation and terms of office of, and reimbursement of travel  
87 expenses for, representatives [of the existing members of the municipal  
88 cooperative] appointed by the existing member municipal electric  
89 utilities and the legislative bodies of the municipalities in which such  
90 member municipal electric utilities operate shall apply to  
91 representatives of such municipal electric utility.

92 (c) A municipal electric utility that is a member of a municipal  
93 electric energy cooperative may withdraw from the municipal electric  
94 energy cooperative if: (1) Such withdrawing municipal electric utility  
95 continues to fully perform all of its obligations under any contract it  
96 has with the municipal electric energy cooperative or provides  
97 sufficient funds in trust for the benefit of the municipal electric energy  
98 cooperative to satisfy such obligations, (2) the withdrawing municipal  
99 electric utility files with the municipal electric energy cooperative a  
100 resolution, duly adopted by its governing body, approving the  
101 withdrawal, and such resolution is filed with the Secretary of the State  
102 in the same manner as provided in subsection (c) of section 7-233d,  
103 and (3) the municipality [represented by the withdrawing municipal  
104 electric utility] in which the withdrawing municipal electric utility  
105 operates does not disapprove of such withdrawal, by vote of the  
106 municipality's legislative body, within thirty days after the adoption of  
107 such a resolution.

108 (d) (1) Upon appointment of its representatives by the [members of  
109 the municipal cooperative] member municipal electric utilities and  
110 legislative bodies of the municipalities in which such member  
111 municipal electric utilities operate, the cooperative utility board shall  
112 organize, select its chairman and vice-chairman from among said  
113 board and proceed to consider those matters which have been  
114 recommended to it by the several members of the municipal electric  
115 energy cooperative.

116       (2) The cooperative utility board may hold such meetings and  
117 public hearings as it deems desirable and the powers of the municipal  
118 electric energy cooperative shall be vested in the representatives  
119 thereof in office from time to time. The cooperative utility board shall  
120 hold any such meetings and public hearings in the state. The  
121 municipal electric energy cooperative shall post on its Internet web site  
122 and provide to participants notice of and the agenda for each meeting  
123 and public hearing, and any changes made thereto, not later than five  
124 days before such meeting or public hearing. Each participant shall post  
125 on its Internet web site and provide to the municipality in which it  
126 operates such notice, agenda and changes not later than four days  
127 before such meeting or public hearing. Each such municipality shall  
128 post on its Internet web site such notice, agenda and changes not later  
129 than three days before such meeting or public hearing.

130       (3) A majority of the entire authorized number of representatives of  
131 the municipal electric energy cooperative shall constitute a quorum at  
132 any meeting thereof. Action may be taken, motions voted and  
133 resolutions adopted by the municipal electric energy cooperative at  
134 any meeting of the cooperative utility board by vote of a majority of  
135 the representatives present, unless in any case the bylaws of a  
136 municipal electric energy cooperative or an amendment to such  
137 bylaws shall require a larger number for adoption or any  
138 representative of the cooperative utility board requests that the vote be  
139 based on megawatt-hour purchases. If such a request is made, [(1)] (A)  
140 each representative shall have a number of votes equal to the total  
141 number of megawatt-hours purchased from the municipal electric  
142 energy cooperative during the preceding completed calendar year by  
143 the [representative's] member municipal electric utility [from the  
144 municipal cooperative during the preceding completed calendar year]  
145 which appointed such representative or which operates in the  
146 municipality whose legislative body appointed such representative,  
147 provided, if the municipal electric energy cooperative includes a new  
148 member municipal electric utility which purchased part or all of its  
149 power and energy from a supplier or suppliers other than the

150 municipal electric energy cooperative during such year, each  
151 representative [of] appointed by such new member municipal electric  
152 utility or the legislative body of the municipality in which such new  
153 member municipal electric utility operates shall have a number of  
154 votes equal to the total megawatt-hours purchased by such new  
155 member from such other suppliers during such year plus the total  
156 number of megawatt-hours purchased from the municipal electric  
157 energy cooperative during such year, and [(2)] (B) any action, motion  
158 or resolution taken, voted or adopted by the municipal electric energy  
159 cooperative at such meeting shall be by a favorable vote of sixty-seven  
160 per cent or more of the total of such votes of the representatives who  
161 are present at the meeting and who vote, provided at least a majority  
162 of the members of the municipal electric energy cooperative approves  
163 such action, motion or resolution. Notwithstanding any provision of  
164 this subsection or of subsection (g) of this section to the contrary, a  
165 unanimous vote of all of the representatives of the municipal electric  
166 energy cooperative shall be required before said municipal electric  
167 energy cooperative can exercise the power of condemnation or  
168 eminent domain provided in this chapter.

169 (4) The municipal electric energy cooperative shall post on its  
170 Internet web site and provide to participants the minutes of such  
171 meeting or public hearing, including any actions taken, motions voted  
172 and resolutions adopted, not later than five days after such meeting or  
173 public hearing described in subdivision (2) of this subsection. Each  
174 participant shall post on its Internet web site and provide to the  
175 municipality in which it operates such minutes not later than six days  
176 after such meeting or public hearing. Each municipality shall post such  
177 minutes on its Internet web site not later than seven days after such  
178 meeting or public hearing.

179 (5) The cooperative utility board may appoint and employ a chief  
180 executive officer, a treasurer, a secretary, a general counsel and such  
181 officers, advisors, consultants and other agents and employees as it  
182 may deem necessary, and the cooperative utility board shall determine  
183 their qualifications, terms of office, duties and compensation.

184 (e) Organizational expenses incurred by a municipal electric energy  
185 cooperative shall be paid ratably by each member in the same  
186 proportion as the population or area of operation serviced by each  
187 such member bears to the total population or area of operation  
188 serviced by all members or by such other method as determined to be  
189 fair and equitable by the cooperative utility board. Such payments  
190 shall be made by each member whether or not that member utilizes the  
191 electric power or energy made available or furnished to such member.

192 (f) Each representative of a municipal electric energy cooperative  
193 shall hold office for the term for which he was appointed and until his  
194 successor has been appointed and has qualified. A representative of a  
195 municipal electric energy cooperative may be removed only by the  
196 cooperative utility board for inefficiency or neglect of duty or  
197 misconduct in office and after he shall have been given a copy of the  
198 charges against him and, not sooner than ten days thereafter, had  
199 opportunity in person or by counsel to be heard thereon by such  
200 governing body. A member municipal electric utility may remove one  
201 or more of [its] the representatives that it appointed with or without  
202 cause at any time. The legislative body of a municipality may remove  
203 the representative that it appointed with or without cause at any time.

204 (g) A municipal electric energy cooperative may adopt, on a  
205 prospective basis, methods of voting for all or specifically designated  
206 matters. Any such methods shall be specified in the bylaws of a  
207 municipal electric energy cooperative or in an amendment to such  
208 bylaws unanimously adopted by the members of the municipal electric  
209 energy cooperative. A municipal electric energy cooperative may  
210 distinguish the voting rights of its members based on whether a  
211 member is a full requirements customer or a partial requirements  
212 customer of the municipal electric energy cooperative or based on the  
213 term of the contractual obligations for power and transmission supply  
214 each member incurs with respect to the municipal electric energy  
215 cooperative, provided any such distinctions shall treat similarly  
216 situated members in a comparable and nondiscriminatory manner. For  
217 purposes of this subsection, "full requirements customer" means a

218 wholesale purchaser of electric power or transmission services whose  
219 electric energy supplier is the sole source of long-term firm power, and  
220 "partial requirements customer" means a wholesale purchaser of  
221 electric power or transmission services that directly owns or operates  
222 generating or transmission assets that are insufficient to carry all of  
223 such purchaser's electric load and whose electric energy supplier is a  
224 supplemental source of long-term firm power.

225 (h) A municipal electric energy cooperative shall cause a forensic  
226 examination conducted by a certified forensic auditor which shall  
227 include a review of the revenue and expenditures of a municipal  
228 electric energy cooperative for the preceding five years. The auditor  
229 shall submit (1) a report that includes an opinion regarding the  
230 financial statements and a management letter, and (2) a report that  
231 includes an opinion on conformance of the operating procedures of the  
232 municipal electric energy cooperative with the provisions of chapter  
233 101a and the bylaws of the municipal electric energy cooperative, and  
234 any recommendations for any corrective actions needed to ensure such  
235 conformance. The municipal electric energy cooperative shall post on  
236 its Internet web site and provide to participants such reports not later  
237 than seven days after such reports are received by the municipal  
238 electric energy cooperative. Each participant shall post on its Internet  
239 web site and provide to the municipality in which it operates such  
240 reports not later than five days after such reports are received from the  
241 municipal electric energy cooperative. Each such municipality shall  
242 post on its Internet web site such reports not later than five days after  
243 such reports are received from the participant.

244 (i) A municipal electric energy cooperative shall annually provide  
245 the following, in accordance with the provisions of section 11-4a, to the  
246 joint standing committee of the General Assembly having cognizance  
247 of matters relating to energy: (1) A list of the current members and  
248 officers of the cooperative utility board described in subsection (d) of  
249 this section; (2) a copy of the most recent annual report of the  
250 municipal electric energy cooperative; (3) a copy of the most recent  
251 audited financial statements, management letter and reports of the



252 municipal electric energy cooperative that are required under  
253 subsection (h) of this section; (4) a copy of any conflicts of interest  
254 policy of the municipal electric energy cooperative; (5) a copy of the  
255 municipal electric energy cooperative's most recently filed Internal  
256 Revenue Service form 990, including all parts and schedules that are  
257 required to be made available for public inspection under the Internal  
258 Revenue Code of 1986, or any subsequent corresponding internal  
259 revenue code of the United States, as amended from time to time; (6) a  
260 copy of the bylaws of the municipal electric energy cooperative; and  
261 (7) as to any employee of the municipal electric energy cooperative, a  
262 report listing the position of each employee and the amount of the  
263 salary, wages and fringe benefit expenses paid to each such employee.

264 (j) If a municipal electric energy cooperative holds a strategic retreat  
265 or similar activity, it shall hold such retreat or activity in the state. The  
266 cooperative utility board shall approve, at a meeting, such retreat or  
267 activity, including the location, the purpose, planned attendees, any  
268 entertainment and any gifts of value. Such retreat or activity shall  
269 include meetings to conduct business and the municipal electric  
270 energy cooperative shall provide to the cooperative utility board, not  
271 later than five days after such retreat or activity, an agenda, a list of  
272 attendees and the meeting minutes. Such retreat or activity shall not  
273 include any entertainment or gifts of value other than that approved  
274 by the cooperative utility board.

275 Sec. 2. Section 7-233p of the general statutes is repealed and the  
276 following is substituted in lieu thereof (*Effective October 1, 2017*):

277 If the members of a municipal electric energy cooperative and the  
278 legislative bodies of the municipalities are not paying compensation to  
279 [their] the representatives they each appointed pursuant to subsection  
280 (a) of section 7-233c, as amended by this act, such municipal electric  
281 energy cooperative may reimburse its representatives for necessary  
282 expenses incurred in the discharge of their duties and pay such  
283 reasonable, uniformly applicable compensation to such representatives  
284 for their service on the board of such municipal electric energy

285 cooperative as provided in this section. The concurrent resolutions  
286 creating a municipal electric energy cooperative may provide that the  
287 representatives of the municipal electric energy cooperative may  
288 receive annual compensation for their services within limitations to be  
289 stated in such concurrent resolutions and in that event, each  
290 representative may receive from the municipal electric energy  
291 cooperative such compensation for his services as the municipal  
292 electric energy cooperative may determine within the limitations  
293 stated in such concurrent resolutions. Said provisions or limitations  
294 stated in any such resolutions may be amended by subsequent  
295 concurrent resolutions, but no reduction of any such limitation shall be  
296 effective as to any representative of the municipal electric energy  
297 cooperative then in office except upon the written consent of such  
298 representative.

299       Sec. 3. (NEW) (*Effective from passage*) (a) There is established a  
300 Municipal Electric Consumer Advocate to act as an independent  
301 advocate for consumer interests in all matters which may affect  
302 municipal electric energy cooperative consumers, including, but not  
303 limited to, electric rates. Costs related to the Municipal Electric  
304 Consumer Advocate, including, but not limited to, hourly fees and  
305 necessary expenses, shall be paid for by all municipal electric energy  
306 cooperatives. The annual amount of such costs shall not exceed  
307 seventy thousand dollars for the first year and fifty thousand dollars  
308 for each year thereafter, unless there is a demonstration of substantial  
309 need made by the Municipal Electric Consumer Advocate and  
310 approved by the cooperative utility boards of all municipal electric  
311 energy cooperatives.

312       (b) The Municipal Electric Consumer Advocate may appear and  
313 participate in municipal electric energy cooperative matters or any  
314 other federal or state regulatory or judicial proceeding in which  
315 consumers of any municipal electric energy cooperative may be  
316 involved. The Municipal Electric Consumer Advocate, in carrying out  
317 his or her duties, shall: (1) Have access to the records of a municipal  
318 electric energy cooperative, (2) have the right to make a reasonable

319 number of copies of a municipal electric energy cooperative's records,  
320 (3) be entitled to call upon the assistance of a municipal electric energy  
321 cooperative's technical and legal experts, and (4) have the benefit of all  
322 other information of a municipal electric energy cooperative, except for  
323 employment records and other internal documents that are not  
324 relevant to the duties of the Municipal Electric Consumer Advocate.

325 (c) (1) The Municipal Electric Consumer Advocate shall be a  
326 member of the bar of this state and shall have private legal experience  
327 in public utility law and policy, but shall not be a member of a  
328 municipal electric energy cooperative's cooperative utility board or a  
329 person who has or may have conflicts of interest, as defined by the  
330 Rules of Professional Conduct, in representing the municipal electric  
331 energy cooperative's consumers as a class. (2) Prior to November 1,  
332 2017, and prior to November first in each odd-numbered year  
333 thereafter, the Consumer Counsel, appointed pursuant to section 16-2a  
334 of the general statutes, shall select the Municipal Electric Consumer  
335 Advocate to serve for a two-year term commencing on the following  
336 first day of January. The Municipal Electric Consumer Advocate may  
337 be terminated by the Consumer Counsel prior to the completion of a  
338 two-year term only for misconduct, material neglect of duty or  
339 incompetence. (3) The Municipal Electric Consumer Advocate shall be  
340 independent of any municipal electric energy cooperative's  
341 cooperative utility board and may not be removed by a municipal  
342 electric energy cooperative's cooperative utility board for any reason.  
343 A municipal electric energy cooperative's cooperative utility board  
344 shall not direct or oversee the activities of the Municipal Electric  
345 Consumer Advocate. A municipal electric energy cooperative's  
346 cooperative utility board shall cooperate with reasonable requests of  
347 the Municipal Electric Consumer Advocate to enable the Municipal  
348 Electric Consumer Advocate to effectively perform his or her duties  
349 and functions.

350 (d) (1) The Municipal Electric Consumer Advocate shall prepare  
351 reports of his or her activities regarding each municipal electric energy  
352 cooperative and submit such reports regarding a municipal electric

353 energy cooperative at the end of each calendar quarter to such  
 354 municipal electric energy cooperative, the chief elected official of each  
 355 municipality in which a participant of such municipal electric energy  
 356 cooperative operates and to the Consumer Counsel. Each municipal  
 357 electric energy cooperative and the Consumer Counsel shall post such  
 358 quarterly reports on their respective Internet web sites. (2) The  
 359 Municipal Electric Consumer Advocate shall hold an annual public  
 360 forum on the second Wednesday of October each year at a location  
 361 where a municipal electric energy cooperative holds hearings for the  
 362 purpose of describing the recent activities of the Municipal Electric  
 363 Consumer Advocate and receiving feedback from consumers. A  
 364 municipal electric energy cooperative shall publicize the public forum  
 365 through an announcement at the preceding scheduled meeting of such  
 366 municipal electric energy cooperative, on its Internet web site and in a  
 367 notice on or attached to its consumer bills. The Municipal Electric  
 368 Consumer Advocate may hold additional public forums as he or she  
 369 deems necessary.

370 (e) Nothing in this section shall be construed to prevent any  
 371 interested person, including, but not limited to, any individual  
 372 consumer or group of consumers, from participating in any municipal  
 373 electric energy cooperative meeting or hearing on their own behalf or  
 374 through counsel.

375 (f) Any municipal electric energy cooperative shall promptly adopt  
 376 any changes to its rules, regulations or other governing documents  
 377 necessary to carry out the requirements of this section."

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2017</i>	7-233c
Sec. 2	<i>October 1, 2017</i>	7-233p
Sec. 3	<i>from passage</i>	New section